Brown v. Draper[1] in which a husband vacated his house owing to differences with his wife, but left behind his furniture and his wife continued to stay in the house. Lord Greene held that possession by the husband's licensee or by his leaving his furniture in the house was sufficient to constitute possession on his part for the purposes of the protection of the Rent Restriction Acts. In the course of his judgment the following passage appears :—

"The protection of the Acts, in our opinion, extends to protect a licensee of the tenant, not because the licensee can claim the protection of the Acts in his or her own right, but because the tenant is a necessary party to the proceedings, and no order can be made against his licensee in his absence."

As was pointed out, however, by Lord Porter in *Hardial Singh & Ors. v. Malayan Theatres Ltd.*[2] English cases have little bearing on cases brought under the Singapore Control of Rent Ordinance owing to the differences between the Ordinance and the English Rent Acts. Before then *Brown v. Draper*[1] can be regarded as a persuasive authority for the present case it is necessary to be satisfied that the principle it enunciated is applicable to the circumstances with which we are dealing. That principle is, putting the matter broadly, the only way a tenant can be deprived of the protection of the Rent Restriction Acts is either by going out of possession or by having an order for recovery of possession made against him; and in relation to this proposition it was laid down that the fact of having a licensee on the premises or the leaving of furniture in them amounted to possession in the personal absence of the tenant. I do not think the language in *Brown v. Draper*[1] implies that this principle is confined to cases where the person left behind in the house is a wife, though the judgment of Denning L.J.in the later case of *Old Gate Estates Ltd. v. Alexander*[3] perhaps suggests a somewhat different view of the matter. In this connection it cannot be disputed that the circumstances which prevail in the case of a private dwelling-place are different from those where business premises are concerned. After careful consideration, however, I am of the opinion that once protection under Rent Control legislation is given to the tenants of business premises, as in Singapore, the reasoning applied in *Brown v. Draper*[1] is equally apposite to the tenant of a shop as to the tenant of a private house. I would add, however, that I do not consider *Brown v. Draper*[1] so far as the leaving of furniture is concerned can be regarded as authority for a case with circumstances so different as ours.

There remains, however, the question whether the respondent is the licensee of Abdul Majid. In my view the appellants are entitled to rely upon the admissions of the respondent to the effect that Abdul Majid had absconded to India in June 1953 owing the partnership over $30,000 as well as other debts in Singapore. In these circumstances it seems plain a strong, if not the main, motive for his departure was to avoid his liabilities, and consequently it was clearly against the interests of the respondent as a member of the partnership. I think that in such a situation, even if the partnership still exists, the respondent can scarcely be regarded as Abdul Majid's agent for the purposes of the tenancy. Again it seems to me that for a person to become a licensee of premises like these there must be evidence of at least an implied grant of a licence on the part of the person alleged to have given it, or if such a licence was already in existence by virtue of the partnership that there was at least an implied licence to remain after the person originally giving it had suddenly vacated the premises. Putting the matter in other language I think that a man who claims rights of tenancy through one who has by any ordinary criterion abandoned his tenancy must establish positively that he himself holds or retains authority from the departed tenant which legally entitles him to retain possession. In the present case as I see the matter Abdul Majid was only concerned with getting away from Singapore and took no action to preserve either his own tenancy rights or to confer upon the respondent any right of occupation after his departure. In the light of these considerations I have reached the conclusion the respondent is not Abdul Majid's licensee, and, therefore, he cannot be correctly said to have held over as Abdul Majid's agent.

For these reasons I would allow the appeal and award the appellants the declaration and injunction they seek in prayers 1 and 2 of their claim with costs here and below.

Appeal allowed.

Solicitors : *Drew & Napier; Tan, Rajah & Cheah.*

CHEW KHAI & ANOR. v. POH TAI CO.

[O. C. J. (Whyatt C.J.) November 16, 1956]

[Singapore — Suit No. 915 of 1956]

Landlord and Tenant — Claim for possession on ground that demolition of building is necessary in the interests of town improvement — Control of Rent Ordinance (Cap. 242), s. 15(1)(k).

In this case the plaintiffs claimed possession of certain shop premises at New Bridge Road, of which they were landlords and the defendants were the tenants. The premises were originally held on a 99-year lease which had expired and the plaintiffs had entered into an agreement with the Government for a 99-year building lease. The plaintiffs called evidence to show that the demolition of the building was necessary to comply with a plea for the re-development of the area drawn up by the Singapore Improvement Trust.

Held: the plan of the Singapore Improvement Trust is a plan for town improvement and any measures which are taken from time to time to implement it constitute town improvement within the meaning of paragraph (k) of subsection (1) of section 15 of the Control of Rent Ordinance and therefore the provisions of that paragraph apply to this case and the plaintiffs are entitled to an order for possession of the premises.

Case referred to :—

(1) *Atkinson v. Bettison* (1955) 1 W.L.R. 1127.

CIVIL SUIT.

Lee Kuan Yew for the plaintiffs.

C. F. J. Ess for the respondents.

Whyatt C.J. : —The plaintiffs in this case seek to recover possession of certain shop premises, known as 37 New Bridge Road, of which they are the landlords and the defendants are the tenants. They have entered into an agreement with the Government for a 99 year building lease and if they can obtain possession of these premises, they intend to demolish them and re-erect on the site a new three storey building in accordance with plans and specifications approved by the Commissioner of Lands. It is common ground that the premises are subject to the provisions of the Control of Rent Ordinance and that in order to succeed the plaintiffs must bring their claim within the provisions of paragraph (k) of sub-section (1) of section 15 of the Ordinance which reads as follows :—

"(k) where the landlord of any premises intends to demolish the premises or any part thereof for the purpose of rebuilding on the site or part thereof, and the Court is satisfied that such demolition is necessary in the interests of public health or town improvement, either by reason of the condition of the building or otherwise;".

The premises in question comprise a shop on the ground floor, a storage room on the first floor, and an attic above the first floor where the shop assistants sleep. It is an old-style Chinese building, with a tiled roof and brick and rubble foundations, built at least fifty years ago and possibly as long as a hundred years ago; the estimate of its future life varied from ten to fifteen years, according to one expert witness, and up to fifty years, according to another expert witness.

There was considerable conflict of evidence as to whether, and if so, to what extent, the building operations which have been carried out and are still in progress on adjacent plots, in particular the concrete piling operations, have damaged the fabric of these premises. The plaintiffs' expert stated in evidence that the premises had developed structural cracks in the walls and in his opinion there had been some settlement of the foundations. He was the architect responsible for the building operations on the adjacent lots, and he had advised the building contractor to underpin the floor and roof of these premises with timber props; in his view the building would not be safe if they were removed at the end of the building operations. The defendants' experts, on the other hand, said they had surveyed the building but had not seen any structural cracks; they had noticed a temperature crack and a fine plaster crack but they disagreed with the view of the plaintiffs' expert that the building was not structurally sound and would become unsafe if the timber props were removed after the termination of the building operations. As I have said, the expert evidence on this matter was very conflicting but on the whole, I incline to the view that these premises have not been seriously affected by the building operations on the neighbouring lots and although old, they are still in reasonably good condition and could continue to be used without danger to life or injury to health for some years to come. It follows, therefore, that I reject the submission of the plaintiffs that the demolition of these premises is necessary in the interests of public health.

I turn now to consider the second limb of the plaintiffs' argument that the demolition of this building is necessary in the interests of town improvement. The evidence of the plaintiffs on this point was clear and compelling. The Chief Planner of the Singapore Improvement Trust stated that in 1941 or thereabouts a number of 99-year leases in this area expired and the premises reverted to the Crown. The Singapore Improvement Trust thereupon drew up a plan for the re-development of the whole of this area which they submitted to the Government. The area in question is bounded by New Bridge Road, Upper Circular Road, South Bridge Road and North Canal Road, and is intersected by Hong Kong Street and Carpenter Street; the premises with which we are concerned in this case are situate somewhere about the middle of New Bridge Road. The Singapore Improvement Trust plan called for extensive demolition and re-building on long-term building leases, and made provisions for modern sanitation, with main sewers in New Bridge Road and subsidiary sewers in back lanes; it also made provision for increasing the width of premises in order to conform with a Municipal By-Law passed in 1907 (which prescribes a minimum width of 16 feet), and for the specifications and plans of new buildings to be erected in this area. There can be no doubt, in my view, that this plan of the Singapore Improvement Trust is a plan for town improvement and any measures which are taken from time to time to implement it constitute *pro tanto* town improvement within the meaning of paragraph (k) of sub-section (1) of section 15.

During the years that have elapsed since the plan was first promulgated, much has been done to carry the plan into effect and recently the process of re-building and re-development has commenced in the New Bridge Road locality. The defendants' shop is situated in a

block in New Bridge Road, comprising eight houses, numbered (by odd numbers), from 35 to 49. The plan provides for the demolition of the existing buildings and for the re-building on 99 year leases of seven houses where previously stood eight, because the new buildings are required to have a width of 16 feet in order to comply with the Municipal By-Law of 1907 instead of the existing width of 14 feet or thereabouts. The other premises in the block have already been demolished and re-building is in progress in the case of Nos. 39, 41, 43, 45, 47 and 49 and has actually been completed in the case of No. 35. Only No. 37 stands apart, immune and protected from this development, so the defendants maintain, by the provisions of the Control of Rent Ordinance. To this argument the plaintiffs reply that paragraph (k) of sub-section (1) of section 15 was introduced by way of amendment to the Ordinance in 1953 for the very purpose of facilitating the carrying out of schemes for town improvement such as this and that the present case falls exactly within the four corners of that paragraph. In my view this contention is sound. It has been clearly established in my opinion, that the plan drawn up for this area in 1941 was a plan for town improvement and that the present proposals for the demolition and re-building of No. 37 are a small, but nevertheless, an integral part of that plan. The demolition and re-building of No. 37 is, therefore, necessary for the implementation of the plan and consequently the demolition of these premises is necessary in the interests of town improvement and accordingly the provisions of paragraph (k) apply to this case.

I should, perhaps, refer to an argument advanced by the defendants to the effect that paragraph (k) does not apply in a case where the dominant motive of the landlord is not to re-build but to acquire a new and valuable lease for 99 years. In support of this argument the defendants relied upon the English case of *Atkinson v. Bettison*[1]. This is a decision on the United Kingdom Landlord and Tenant Act 1954 in which the Court of Appeal decided that a landlord could not oppose an application by a tenant for a new lease on the ground that he intended to reconstruct the premises if his main purpose was not to reconstruct but to obtain possession for his own business. The short answer to defendants' argument on this point is that the case of *Atkinson v. Bettison*[1] is a decision on the provisions of a United Kingdom statute which are entirely different from the provisions of paragraph (k) of sub-section 1 of section 15, not only as regards the wording of the provisions but as regards the policy and objects of the legislation. The United Kingdom statute is not, in my view, *in pari materia* and decisions upon it afford no guidance to the interpretation of paragraph (k) of sub-section (1) of section 15.

For these reasons I am of the opinion that the plaintiffs are entitled to an order for possession of No. 37 New Bridge Road and there will be judgment for the plaintiffs accordingly. The plaintiffs must have the costs of these proceedings.

Claim allowed.

Solicitors: *Lee & Lee; R. C. H. Lim & Co.*

GULAZAM v. NOORZAMAN AND SOBATH

[O. C. J. (Abdul Hamid J.) November 29, 1956]

[K. L. — Civil Suit No. 41 of 1956]

Partnership — Claim for partnership — Partnership business not registered — Statutory defence under s. 8 of Registration and Licensing of Business Ordinance, 1953.

In this case the plaintiff claimed that the defendants who were cattle dealers had made arrangements to form a partnership among the three of them to purchase keep and sell cattle. The defendant denied the existence of the partnership and also raised a statutory defence under section 8 of the Registration and Licensing of Business Ordinance, 1953 that the plaintiff's claim was not maintainable as the partnership business had not been registered.

Held: (1) on the facts a partnership existed between the parties;

(2) section 8 of the Registration and Licensing of Business Ordinance, 1953 does not affect the right of one partner in a firm which has failed to comply with the Ordinance to bring an action against his co-partners.

Case referred to:—

(1) *Sterios Thomopulos & Anor. v. John Mandilas* (1948) A.C. 12.

CIVIL SUIT.

S. D. K. Peddie for the plaintiff.

J. G. Bentley for the defendants.

Abdul Hamid J.: —In this Suit the parties are Pathans. The plaintiff who is an ex-police constable and a watchman on a rubber estate asserted that on the 3rd of June, 1948, both defendants who are cattle dealers saw him and made arrangements to form a partnership among the three of them to purchase, keep and sell cattle. The conditions were that the plaintiff was to provide $200 as capital to purchase the cattle, and both the defendants to look after it and sell it and the profits to be divided among them in equal shares. Accordingly, a verbal agreement of partnership was entered into on the 6th June, 1948 when the plaintiff provided the necessary capital. Between April, 1950